

## **DETAILED ACTION**

Amendment to Non-final office action filed on June 15, 2009 is acknowledged.

Sequence Listing filed on August 24, 2009 has been accepted. Claims 1-17, 30 have been cancelled and new claims 37-41 have been added. Claims 18-29 and 31-41 are pending in this application.

### ***Withdrawn Objections and Rejections***

1. Objections to claims 17, 26-27, 35-36 are hereby withdrawn in view of Applicant's amendment to the claims.
2. Objections to the specification are hereby withdrawn in view of Applicant's amendment to the specification.
3. Rejection of claims 17-27, 31-33 and 35-36 under 35 U.S.C. 112, second paragraph, is hereby withdrawn in view of Applicant's amendment to the claims.
4. Rejection of claims 17-27, 31-33 and 35-36 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement, is hereby withdrawn in view of Applicant's amendment to the claims.
5. Rejection of claims 17-18, 20-27, 31-33 and 35-36 under 35 U.S.C. 112, first paragraph (Enablement rejection), is hereby withdrawn in view of Applicant's amendment to the claims.
6. Rejection of claims 17-27, 31-33 and 35-36 under 35 U.S.C. 101, is hereby withdrawn in view of Applicant's amendment to the claims.

7. Rejection of claim 17 under 35 U.S.C. 102(b) as being anticipated by Ni et al (US 2003/0036646 A1) is hereby withdrawn in view of Applicant's cancellation of claim 17.

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. H. James Voeller on April 28, 2011.

The application has been amended as follows:

Claim 34, drawn to nonelected species is hereby rejoined.

Claims 18-27, 31-41 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 28-29, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, 07/10/2009 hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on 10/30/2008 is hereby withdrawn**. In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the

limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Claims 22-23, 28 and 34 have been amended as follows:

22. The composition according to claim 18, wherein the protein fragment is ~~beforehand~~ solubilized in one or more cosmetically or pharmaceutically acceptable solvent.

23. The composition according to claim 18, wherein the protein fragment is ~~beforehand~~ solubilized in, or fixed on, a cosmetically or pharmaceutically acceptable vector.

28. A process of cosmetic care to reduce, ~~eliminate, and/or prevent~~ excess subcutaneous fat, and/or ~~intended to fight against to reduce~~ cellulite, and/or ~~to fight against to reduce~~ the phenomenon of orange-peel skin, said process comprising administering to the surface of the skin of a subject an effective quantity of the composition defined according to claim 25.

34. The composition according to claim 23, wherein the ~~active agent protein fragment~~ is ~~beforehand~~ absorbed on powdery organic polymers, mineral supports, talcs or bentonites.

Claims 18-21, 24-27, 29, 31-33 and 35-41 as filed on June 15, 2009.

***Conclusion***

Claims 18-29 and 31-41 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JULIE HA whose telephone number is (571)272-5982.

The examiner can normally be reached on Mon-Thurs, 5:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on 571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Julie Ha/  
Primary Examiner, Art Unit 1654

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